



ECLEG DEC20'11 #11-20

## County of Erie

MARK C. POLONCARZ  
COMPTROLLER

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December 30, 2011

The Erie County Legislature  
92 Franklin Street  
Buffalo, New York 14202

Honorable Christopher C. Collins  
Erie County Executive  
95 Franklin Street  
Buffalo, New York 14202

Dear Honorable Members and County Executive Collins:

Enclosed is an audit report of the County of Erie Tow Path Park Development project for the period November 18, 2002 to December 31, 2009. The audit was required by contract number 560218 between the Erie County Department of Environment and Planning and the New York State Office of Parks, Recreation and Historic Preservation (NYS OPRHP).

Copies of this report will be filed with NYS OPRHP.

If you have any questions pertaining to this report, please call Paul Stachnik of this Office at Ext. 6286.

Very truly yours,

Lorne H. Steinhart  
Deputy Erie County Comptroller

LHS/nr

Enclosures

c: Gregory G. Gach, Director of Budget and Management  
Kathy Konst, Commissioner of Environment and Planning  
Erie County Audit Committee Members

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**COUNTY OF ERIE,  
NEW YORK**

**Tow Path Park Development  
Contract No. 560218**

*Statement of Contract Revenues and Contract  
Expenditures, and Supplemental Schedules for the  
Period November 18, 2002 to December 31, 2009  
and Independent Auditors' Reports*



**COUNTY OF ERIE, NEW YORK**  
**Tow Path Park Development – Contract No. 560218**  
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**For the Period November 18, 2002 to December 31, 2009**

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Certified Public Accountants

**INDEPENDENT AUDITORS' REPORT**

New York State Office of Parks, Recreation  
and Historic Preservation

Honorable County Legislature  
County of Erie, New York

RE: Contract Number 560218

We have audited the accompanying statement of project revenues and expenditures of the Tow Path Park Development Project for the period November 18, 2002 to December 31, 2009 pursuant to Contract Number 560218 described in Note 1, between the County of Erie (the "County") and New York State Office of Parks, Recreation and Historic Preservation ("NYS OPRHP") dated June 8, 2004 and amended December 26, 2007 and October 29, 2009. This financial statement is the responsibility of the management of the County. Our responsibility is to express an opinion on this statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the statement of project revenues and expenditures. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 1, the accompanying financial statement was prepared to present the contract revenues and contract expenditures related to the Tow Path Park Project under Contract Number 560218, and is not intended to be a complete financial statement presentation prepared in conformity with generally accepted accounting principles.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the project revenues and expenditures of the County's Tow Path Park Project under Contract Number 560218, dated June 8, 2004 and amended December 26, 2007 and October 29, 2009, between the County and NYS OPRHP, on the basis of accounting discussed in Note 1.

Our audit was made for the purpose of forming an opinion on the financial statement taken as a whole. The schedule of project expenditures by vendors and schedule of revenues by source on pages 6 and 7, respectively, are presented for the purpose of additional analysis and are not a required part of the financial statement. Such information has been subjected to the auditing procedures applied in the audit of the financial statement and, in our opinion, is fairly stated in all material respects in relation to the financial statement taken as a whole.

In accordance with *Government Auditing Standards*, we have also issued our report dated December 12, 2011, on our consideration of the County's internal control over financial reporting, as it pertains to Contract Number 560218, and our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of the testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

This report is intended solely for the information and use of the County Legislature, management of the County, and NYS OPRHP in connection with Contract Number 560218 and is not intended to be and should not be used by anyone other than these specified parties.

 E. Malachuk LLP

December 12, 2011



**COUNTY OF ERIE, NEW YORK**  
**Tow Path Park Development Project—Contract No. 560218**  
**Statement of Contract Revenues and Contract Expenditures**  
**For the Period November 18, 2002 to December 31, 2009**

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	<u>Budgeted</u>	<u>Actual</u>
<b>REVENUES:</b>		
Contract Number 560218 (State share)	\$ 300,000	\$ 300,000
Matching funds (contractor's share)	<u>526,000</u>	<u>329,474</u>
Total revenues	<u>826,000</u>	<u>629,474</u>
<b>EXPENDITURES:</b>		
Development costs:		
Park development	<u>722,000</u>	<u>525,711</u>
Total development costs	<u>722,000</u>	<u>525,711</u>
Planning and administration costs:		
Survey and design	80,000	80,480
Administration	<u>24,000</u>	<u>23,283</u>
Total planning and administration costs:	<u>104,000</u>	<u>103,763</u>
Total expenditures	<u>826,000</u>	<u>629,474</u>
<b>Excess (deficiency) of revenues</b>		
<b>    over (under) expenditures</b>	<u>\$ -</u>	<u>\$ -</u>

See accompanying Notes to Statement of Contract Revenues and Contract Expenditures.

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**COUNTY OF ERIE, NEW YORK**  
**Tow Path Park Development Project—Contract No. 560218**  
**Notes to the Statement of Contract Revenues and Contract Expenditures**  
**For the Period November 18, 2002 to December 31, 2009**

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**1. Contract Description**

Contract Number 560218 dated June 8, 2004 and amended December 26, 2007 and October 29, 2009 is an agreement between the County of Erie, New York (the "County") and the New York State Office of Parks, Recreation and Historic Preservation ("NYS OPRHP"). The contract provides for NYS OPRHP to reimburse the County for up to 50% (maximum of \$300,000) of the budgeted \$826,000 of eligible project expenditures, as listed in Appendix B in the original contract and amended on December 26, 2007, to develop the Tow Path Park, a newly established 5.3 acre public park located on the Niagara River in the City of Buffalo, New York.

**2. Basis of Accounting and Accounting Policies**

The statement of contract revenues and contract expenditures has been prepared on the accrual basis of accounting.

Revenue recognition—Contract and matching revenue is recognized when project expenditures are incurred in compliance with the terms of the contract, irrespective of the filing of claims for reimbursement of actual cash receipts.

Development expenditures—Development costs are recognized when incurred and have been recorded as contract expenditures in the financial statement in accordance with the contract terms, rather than being capitalized.

Use of estimates—The eligible expenses are subject to review by NYS OPRHP upon submission of required detail information and proof of payment. Management is required to determine the allowable expenses under the contract, and generally consults with NYS OPRHP in matters of judgment; however, the final determination of allowable expenses will be made by NYS OPRHP upon final submission of project costs.

### 3. NYS OPRHP Contract Revenue and Unreimbursed Contract Costs

The following schedule presents the contract revenue recognized at December 31, 2009 as cash received from NYS OPRHP based on payment requisitions and the unreimbursed project costs at December 31, 2009:

Contract revenue		\$ 300,000
Cash receipts:		
12/18/08	\$	64,613
02/02/09		61,768
03/05/09		47,391
06/16/09		26,802
03/19/10		10,435
03/22/10		<u>20,870</u>
		<u>231,879</u>
Unreimbursed costs at December 12, 2011		\$ <u>68,121</u>

### 4. Accrued Expenditures

At December 12, 2011 an audit fee of \$5,500 had been incurred but not paid.

### 5. Contingencies

The eligible expenses are subject to review by NYS OPRHP upon submission of required detailed information and proof of payment. Management is required to determine the allowable expenses under the contract, and generally consults with NYS OPRHP in matters of judgment. However, the final determination of allowable expenses will be made by NYS OPRHP upon final submission of project costs.

**COUNTY OF ERIE, NEW YORK**  
**Tow Path Park Development Project—Contract No. 560218**  
**Schedule of Project Expenditures by Vendors**  
**For the Period November 18, 2002 to December 31, 2009**

<u>Contractor/Vendor Name</u>	<u>Description</u>	<u>A</u>	<u>B</u>
		<u>Total donated value</u>	<u>Total paid amount</u>
<b>Development costs:</b>			
Visone Construction Inc.	Development	\$ -	\$ 466,075
O'Connell Electric Company	Electrical	-	59,636
		-	525,711
<b>Survey and Design:</b>			
Buffalo News	Legal notices	-	2,786
Buffalo and Erie County Historical Society	Planning	-	332
Business First	Legal notices	-	45
Challenger Publication	Legal notices	-	112
Trowbridge & Wolf LLP	Design	-	73,662
		-	76,937
<b>Administration:</b>			
Trowbridge & Wolf LLP	Administration	-	21,326
Drescher & Malecki LLP	Audit services	-	5,500
		-	26,826
Totals of A & B		<u>\$ -</u>	<u>\$ 629,474</u>
<b>Grand Total (A plus B)</b>			<u>\$ 629,474</u>

**COUNTY OF ERIE, NEW YORK**  
**Tow Path Park Development Project—Contract No. 560218**  
**Schedule of Revenues by Source**  
**For the Period November 18, 2002 to December 31, 2009**

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**A. Source of Matching Funds**

County of Erie-General Government Buildings, Equipment and Improvements Fund	\$ 329,474
Sub-Total A	<u>329,474</u>

**B. Source of Other Revenues**

OPRHP Grant Contract # 560218	<u>300,000</u>
Sub-Total B	<u>300,000</u>

<b>Grand Total (A plus B)</b>	<b><u>\$ 629,474</u></b>
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Certified Public Accountants

**INDEPENDENT AUDITORS' REPORT ON INTERNAL  
CONTROL OVER FINANCIAL REPORTING AND ON  
COMPLIANCE AND OTHER MATTERS BASED UPON  
AN AUDIT OF THE FINANCIAL STATEMENTS PERFORMED  
IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS***

New York State Office of Parks, Recreation  
and Historic Preservation

Honorable County Legislature  
County of Erie, New York

RE: Contract Number 560218

We have audited the accompanying statement of contract revenues and contract expenditures of the County of Erie's Tow Path Park Development Project for the period November 18, 2002 to December 31, 2009 pursuant to Contract Number 560218 described in Note 1, between the County of Erie, New York (the "County") and the New York State Office of Parks, Recreation and Historic Preservation ("NYS OPRHP") and have issued our report thereon dated December 12, 2011. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

**Internal Control Over Financial Reporting**

Management of the County is responsible for establishing and maintaining effective internal control over financial reporting. In planning and performing our audit, we considered the County's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the statement of contract revenues and contract expenditures for Contract Number 560218 of the County, but not for the purpose of expressing an opinion on the effectiveness of the County's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the County's internal control over financial reporting.

*A deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. *A material weakness* is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of the internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

#### **Compliance and Other Matters**

As part of obtaining reasonable assurance about whether the statement of contract revenues and contract expenditures for Contract Number 560218 of the County's Tow Path Park Development Project is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grants as they pertain to Contract Number 560218, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

This report is intended solely for the information and use of the County Legislature, management of the County, and NYS OPRHP in connection with Contract Number 560218 and is not intended to be and should not be used by anyone other than these specified parties.

A handwritten signature in dark ink, appearing to read "Doreen E. Mahoney". The signature is fluid and cursive, with the last name being the most prominent.

December 12, 2011